

**REMARKS**

Claims 1 and 3-18 are pending in this application. By this Amendment, claims 1, 4 and 12 have been amended and claim 2 has been canceled without prejudice to or disclaimer of the subject matter recited therein. Support for the amendment to claim 1 can be found at least at pg. 17, line 20 - pg. 18, line 3 of the specification and Figs. 2 and 3. Claims 4 and 12 have been rewritten into independent form. Thus no new matter has been added.

**I. November 12, 2008 Personal Interview**

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Chu during the November 12, 2008 personal interview. Applicants' separate record of the substance of the interview is incorporated into the following remarks.

**II. Allowable Subject Matter**

As discussed during the November 12, 2008 personal interview, the Amendment filed on October 27, 2008 amended claims 1, 7-9 and 12-16 responsive to the claim objections and the 35 U.S.C. §112, second paragraph, rejection. Further, by this Amendment, claims 4 and 12 (indicated as containing allowable subject matter) have been rewritten into independent form. Thus, claims 4, 7, 8, 10-12 and 14 should be allowable and claims 5, 6, 9, 13 and 15-18 should at least contain allowable subject matter.

**III. 35 U.S.C. §102 Rejection**

The Office Action rejects claims 1-3 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,031,037 to Hirao et al. (hereinafter "Hirao"). Claim 2 has been canceled rendering the rejection with respect to this claim moot. The rejection of claims 1 and 3 is respectfully traversed.

As discussed during the November 12, 2008 personal interview, Applicants continue to submit that Hirao fails to disclose "a servo layer formed on a light incident side of the recording layer, the servo layer having one of wavelength selectivity and incident angle

selectivity, each of the wavelength selectivity and the incident angle selectivity allowing the object light and the reference light to pass through the servo layer, wherein the servo layer reflects servo light having a wavelength different from a wavelength of the object light and a wavelength of the reference light or the servo layer reflects servo light having an incident angle different from an incident angle of the object light and an incident angle of the reference light," as previously recited by claim 1.

Further, as discussed during the November 12, 2008 personal interview, Hirao fails to disclose "a servo layer formed above the recording layer so as to face a direction of incident light, the servo layer having convexities and concavities that impart one of wavelength selectivity and incident angle selectivity..." as currently recited by claim 1.

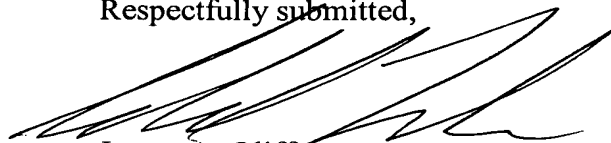
Therefore, claim 1 is patentable over Hirao. Claim 3 is also patentable over Hirao for at least its dependency from claim 1 as well as for the additional features it recites.

**IV. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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